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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/783,183

02/14/2001

Holger Sedlak

J0658.0027

2117

38881

7590

05/28/2009

DICKSTEIN SHAPIRO LLP

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EXAMINER

NGUYEN, HIEN N

ART UNIT

PAPER NUMBER

2824

MAIL DATE

DELIVERY MODE

05/28/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/783,183	Applicant(s) SEDLAK, HOLGER	
	Examiner HIEN N. NGUYEN	Art Unit 2824	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on the ADS filed on 11/07/08.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 September 2007 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/23/02 & 10/03/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The Supplement Application Data Sheet **filed on 11/07/08** for priority claiming has been entered and approved.
2. The drawings **filed on 9/27/07** have been entered.
3. The Information Disclosure Statement (IDS) submitted on **7/23/02** and **10/03/03** have being considered by the examiner.

Drawings

1. The Drawings filed on 9/27/07 of Figures 3 and 4 did not **comply with section (c) of 37 CFR 1.173 (b) (3):**

(c) Amended figures must be identified as "Amended," and any added figure must be identified as "New." Cancelled figures must be surrounded by brackets and identified as "Canceled."

2. For instance, FIG 3 should be labeled as "Amended FIG 3."

Oath/Declaration

The specification to which the oath or declaration is directed has not been adequately identified. See MPEP § 602.

3. **A new oath is required. The title of the invention for which the reissue patent sought is incorrect.**

(a) The oath or declaration must identify the specification to which it is directed as required by 37CFR 1.63(a)(2). [See MPEP § 601.01(a) last para. and § 602 part VI for guidance regarding the acceptable minimums for identifying the specification in an oath or declaration.

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CELLS**

- 4. The application was filed without a proper consent. The consent does identify the correct patent for which reissue is sought.**

If the patent (or the reissue application) has been assigned, 37 CFR 1.172 requires that all assignees owning an undivided interest consent to the filing of the reissue application. If there is no assignee, the application should so state. Otherwise, it can be assumed the patent and/or reissue application is assigned.

Conclusion

- 1. Claims 1-18 are rejected** as being based upon a defective reissue stated with the reasons above under 35 U.S.C. 251 as set forth above. See 37 CFR 1.172.

The nature of the defect(s) in the Declaration is set forth in the discussion above in this Office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HIEN N. NGUYEN whose telephone number

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is (571)272-1879. The examiner can normally be reached on Monday through Thursday 9:30 AM to 7:00 PM..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Elms can be reached on (571) 272-1869. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HN

May 20, 2009

/Richard Elms/
Supervisory Patent Examiner, Art Unit 2824
5.26.09